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FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			SANTIAGO CORDERO, MARIVELISSE	
			ART UNIT	PAPER NUMBER
			2687	
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/679,529

Applicant(s)

WILSON ET AL.

Examiner

Marivelisse Santiago-Cordero

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-18 and 20-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-18 and 20-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 3 and 18 were cancelled. Claims 21-23 were newly added.

Response to Arguments

2. Applicant's arguments filed on 11/25/05 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., interception of a routing query from the SMS Gateway Mobile Switching Centre to the HLR and interception of a routing query to a HLR (see Remarks: page 6, last paragraph); and the message processing means implements whatever deliver service and features are required by the recipient, and furthermore can acknowledge the message only once delivery is complete hence preserving correct delivery report behavior (see Remarks: page 7, lines 18-21)) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Furthermore, the Examiner makes reference to Alperovich et al. (hereinafter "Alperovich"; Patent No.: 6,101,393) where it discloses interception of a routing query, said signal processing means (Fig. 2, references 30, 35, or 40, either singularly or in combination), then responding to the routing query on behalf of the HLR (Fig. 2, reference 26) and providing a modified address which causes the text message to be sent to message processing means for implementation of a selected delivery mode(s) (Fig. 2, references 200, 40, or 50, either singularly

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or in combination) as stated in the claims. Note that the delivery mode is implemented since the message is routed to the recipient according to the subscriber preferences/rules.

3. Applicant's amendment and the addition of claims 21-23 necessitated the new grounds of rejection presented in this Office Action. Accordingly, this Action is made FINAL.

Claim Objections

4. Applicant is advised that should claim 4 be found allowable, claim 22 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

5. Claim 21 is objected to because of the following informalities: the term "the text message" (lines 4-5) should be replaced with --a text message--; the term "message processing means" (line 5) should be preceded by --a--. Appropriate correction is required.

6. Claim 20 is objected to because the limitation presented in the now amended claim is different from the limitation provided in the previously examined claims. The complete changes were not acknowledged in the submitted amendment. Claim 20 from the previously examined claims cited "wherein the **signal** processing means is an SMS router" in comparison with the newly submitted claim 20, which cites "wherein the **message** processing means is an SMS router". **For purposes of examination, the Examiner will assume the correct limitation is from the previously examined claims.** However, if applicant disagrees, then, applicant is advised that should claim 18 be found allowable, claim 20 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else

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are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 21, the limitation “a modified address” (line 5) is unclear since no address was previously presented in order for it to be modified. Appropriate correction is required.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1, 4, 10, 14-15, 17, 20-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Alperovich et al. (hereinafter “Alperovich”; Patent No.: 6,101,393).

Regarding claim 1, Alperovich discloses a method of controlling delivery of text messages to a subscriber in a telecommunications services apparatus (Abstract), the method comprising the steps of the subscriber (Fig. 2, reference numeral 22) making a selection as to a

mode of delivery that the subscriber requires for one of (i) a future text message and (ii) a category of future text messages (Abstract; col. 1, lines 55-57; col. 2, lines 19-23), the subscriber's requested selection being implemented by a message processing means (Fig. 2, references 200, 40, or 50, either singularly or in combination) which is part of the home network with which the subscriber's mobile telephone is normally associated (col. 1, line 63 through col. 2, line 19), the arrangement being such that any text messages intended by the sender to be delivered to the said subscriber, as intended receiver thereof, are directed to the message processing means which then implements the delivery mode previously selected by the subscriber (Fig. 2; col. 3, lines 24-66; col. 4, lines 23-36), wherein a routing query from another network, made in response to a request from a user associated with said another network, is arranged to be intercepted by a signal processing means provided in said home network (Fig. 2, reference numerals 30, 35, or 40, either singularly or in combination; col. 3, lines 24-66; specially lines 45-49), said signal processing means then responding to the routing query on behalf of a HLR (home location register) of the home network (Fig. 2) to provide a modified address which causes the text message from said another network to be directed to said message processing means for implementation of said delivery mode (col. 3, lines 50-66; note that the delivery mode is implemented since the message is routed to the recipient according to the subscriber preferences/rules).

Regarding claims 4 and 22, Alperovich discloses the method of claim 1 or claim 2 (see above) in which the signal processing means is an SMS router (Fig. 2).

Regarding claim 10, Alperovich discloses the method of claim 1 (see above) in which one of the delivery modes which is available is a mode providing special handling of some

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messages according to originator number (col. 1, lines 55-57; col. 1, line 63 through col. 2, line 9).

Regarding claim 14, Alperovich discloses the method of claim 1 (see above) in which the subscriber makes the selection by a USSD command (Abstract).

Regarding claim 15, Alperovich discloses the method of claim 1 (see above) in which the subscriber makes the selection by an SMS (from col. 5, line 67 through col. 6, line 6).

Regarding claim 17, Alperovich discloses a telecommunications network comprising a message processing means (Fig. 2, reference 200, 40, or 50, either singularly or in combination) that is capable of storing a selection of at least one selectable mode of delivery of a text message made by a subscriber to a network incorporating the message processing means (col. 2, lines 3-23) and to implement the previously selected mode of delivery on receipt by the message processing means of a text message, intended for receipt by said subscriber, by forwarding the message to at least one delivery path of the message processing means (col. 2, lines 3-23; Fig. 5; col. 5, lines 22-50), wherein the telecommunications network further comprises a HLR (home location register) (Fig. 2, reference numeral 26) and a signal processing means (Fig. 2, reference references 30, 35, or 40, either singularly or in combination), said signal processing means being configured in association with the HLR to intercept routing queries sent to the HLR of said network from another network (Fig. 2), for receiving a text message from such another network (Fig. 2; col. 3, lines 15-66), to communicate with the HLR but to provide a modified address which will cause the text message from said another network to be sent to the message processing means which will then effect delivery in accordance with at least one previously

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selected mode of delivery (Fig. 2; col. 3, lines 45-66; note that the delivery mode is implemented since the message is routed to the recipient according to the subscriber preferences/rules).

Regarding claim 20, Alperovich discloses a telecommunications network as claimed in claim 19 (see above) in which the signal processing means is an SMS router (Fig. 2, reference numeral 40).

Regarding claim 21, Alperovich discloses a telecommunications services apparatus comprising a signal processing means (Fig. 2, reference references 30, 35, or 40, either singularly or in combination) configured in association with a HLR (home location register) (Fig. 2, reference numeral 26) to intercept routing queries sent to the HLR of said network from another network (Fig. 2), the signal processing means being configured to communicate with the HLR but to provide a modified address which will cause the text message from said another network to be sent to a message processing means (Fig. 2, references 200, 40, or 50, either singularly or in combination), the message processing means being operative to effect delivery in accordance with a mode or modes of delivery previously selected by a recipient of the message (Fig. 2, reference 22; col. 3, lines 45-66).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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12. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

13. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

14. Claims 2, 5, 8-9, 11-12, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alperovich in view of Astrom et al. (hereinafter "Astrom"; Patent No.: 6,108,559).

Regarding claim 2, Alperovich discloses the method of claim 1 (see above). Alperovich fails to disclose in which the message processing means is an SMS router.

However, Astrom, in the same field of endeavor, discloses in which the message processing means is an SMS router (col. 6, lines 4-7 and 27-35).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to use the message processing means of Alperovich as an SMS router as suggested by Astrom.

One of ordinary skill in this art would have been motivated to use the message processing means as an SMS router because it would have the responsibility to determine how the messages shall be routed (Astrom: col. 6, lines 4-7) and are widely acceptable.

Regarding claim 5, Alperovich discloses the method of claim 1 (see above). Alperovich fails to disclose in which one of the delivery modes which is available is a mode providing a delayed message delivery during selected hours of the day.

However, Astrom, in the same field of endeavor, discloses in which one of the delivery modes, which is available, is a mode providing a delayed message delivery during selected hours of the day (col. 3, lines 49-53; note the scheduled delivery of the message).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to provide a delayed message delivery during selected hours of the day in the delivery modes of Alperovich as suggested by Astrom.

One of ordinary skill in this art would have been motivated to provide a delayed message delivery during selected hours of the day in the delivery modes because it would allow the recipient to receive the message when he/she is available or less occupied.

Regarding claim 8, Alperovich discloses the method of claim 1 (see above). Alperovich fails to disclose in which one of the delivery modes, which is available, is a mode providing diversion of messages on a time of day basis.

However, Astrom, in the same field of endeavor, discloses in which one of the delivery modes, which is available, is a mode providing diversion of messages on a time of day basis (col. 3, lines 49-53; note the scheduled delivery of the message).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to provide diversion of messages on a time of day basis in the delivery modes of Alperovich as suggested by Astrom.

One of ordinary skill in this art would have been motivated to provide diversion of messages on a time of day basis in the delivery modes because it would allow the recipient to receive the message when he/she is available or less occupied.

Regarding claim 9, Alperovich discloses the method of claim 1 (see above). Alperovich fails to disclose in which one of the delivery modes, which is available, is a mode providing conversion of messages to voice for delivery in a voice call.

However, Astrom, in the same field of endeavor, discloses in which one of the delivery modes, which is available, is a mode providing conversion of messages to voice for delivery in a voice call (col. 3, lines 49-53; note the media conversion).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to provide conversion of messages to voice for delivery in a voice call in one of the delivery modes of Alperovich as suggested by Astrom.

One of ordinary skill in this art would have been motivated to provide conversion of messages to voice for delivery in a voice call in one of the delivery modes because it can be used to audibly notify the recipient.

Regarding claim 11, Alperovich discloses the method of claim 1 (see above). Alperovich fails to disclose in which one of the delivery modes, which is available, is a mode providing filtering of messages by address information or content.

However, Astrom, in the same field of endeavor, discloses in which one of the delivery modes which is available is a mode providing filtering of messages by address information or content (col. 3, lines 53-55).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to provide filtering of messages by address information or content call in one of the delivery modes of Alperovich as suggested by Astrom.

One of ordinary skill in this art would have been motivated to provide filtering of messages by address information or content call in one of the delivery modes because it would screen out annoying advertisements (Astrom: col. 3, lines 53-55).

Regarding claim 12, Alperovich discloses the method of claim 1 (see above). Alperovich fails to disclose in which one of the delivery modes, which is available, is a mode providing delivery by fax.

However, Astrom, in the same field of endeavor, discloses in which one of the delivery modes, which is available, is a mode providing delivery by fax (col. 2, lines 18-23).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to provide delivery by fax in one of the delivery modes of Alperovich as suggested by Astrom.

One of ordinary skill in this art would have been motivated to provide delivery by fax in one of the delivery modes because it would convert the message to a desired delivery media (Astrom: col. 2, lines 18-23).

Regarding claim 18, Alperovich discloses the method of claim 17 (see above). Alperovich fails to disclose in which the message processing means is an SMS router.

However, Astrom, in the same field of endeavor, discloses in which the message processing means is an SMS router (col. 6, lines 4-7 and 27-35; note the SCP).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to use the message processing means of Alperovich as an SMS router as suggested by Astrom.

One of ordinary skill in this art would have been motivated to use the message processing means as an SMS router because it would have the responsibility to determine how the messages shall be routed (Astrom: col. 6, lines 4-7).

15. Claims 6-7, 9, 12-13, 16, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alperovich in view of Skladman et al. (hereinafter "Skladman"; Pub. No.: US 2003/0012348).

Regarding claim 6, Alperovich discloses the method of claim 1 (see above). Alperovich fails to disclose in which one of the delivery modes, which is available, is a mode providing diversion of text messages to fixed line when the subscriber is in a home cell.

However, Skladman discloses in which one of the delivery modes which is available is a mode providing diversion of text messages to fixed line when the subscriber is in a home cell (pages 3-4; paragraph [0044]).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to provide diversion of text messages to fixed line when the subscriber is in a home cell in one of the delivery modes of Alperovich as suggested by Skladman.

One of ordinary skill in this art would have been motivated to provide diversion of text messages to fixed line when the subscriber is in a home cell in one of the delivery modes because

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it can be delivered over any or all of the available communication networks, depending on the preferences of the respective users (Skladman: page 4, paragraph [0048]).

Regarding claim 7, Alperovich discloses the method of claim 1 (see above). Alperovich fails to disclose in which one of the delivery modes, which is available, is a mode providing diversion of messages to an alternative mobile number.

However, Skladman discloses in which one of the delivery modes, which is available, is a mode providing diversion of messages to an alternative mobile number (pages 3-4; paragraph [0044]).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to provide diversion of messages to an alternative mobile number in one of the delivery modes of Alperovich as suggested by Skladman.

One of ordinary skill in this art would have been motivated to provide diversion of messages to an alternative mobile number in one of the delivery modes because it can be delivered over any or all of the available communication networks, depending on the preferences of the respective users (Skladman: page 4, paragraph [0048]).

Regarding claim 9, Alperovich discloses the method of claim 1 (see above). Alperovich fails to disclose in which one of the delivery modes, which is available, is a mode providing conversion of messages to voice for delivery in a voice call.

However, Skladman discloses in which one of the delivery modes, which is available, is a mode providing conversion of messages to voice for delivery in a voice call (page 4, paragraphs [0053]-[0055]).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to provide conversion of messages to voice for delivery in a voice call of Alperovich as suggested by Skladman.

One of ordinary skill in this art would have been motivated to provide conversion of messages to voice for delivery in a voice call because it can be used to audibly notify the recipient (Skladman: page 4, paragraph [0055]).

Regarding claim 12, Alperovich discloses the method of claim 1 (see above). Alperovich fails to disclose in which one of the delivery modes, which is available, is a mode providing delivery by fax.

However, Skladman discloses in which one of the delivery modes, which is available, is a mode providing delivery by fax (pages 4-5; paragraph [0055]).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to provide delivery by fax in one of the delivery modes of Alperovich as suggested by Skladman.

One of ordinary skill in this art would have been motivated to provide delivery by fax in one of the delivery modes because it would convert the message to a desired delivery media.

Regarding claim 13, Alperovich discloses the method of claim 1 (see above). Alperovich fails to disclose in which one of the delivery modes, which is available, is a mode providing delivery by e-mail.

However, Skladman discloses in which one of the delivery modes, which is available, is a mode providing delivery by e-mail (pages 3-4; paragraph [0044]; pages 4-5; paragraph [0055]).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to provide delivery by e-mail in one of the delivery modes of Alperovich as suggested by Skladman.

One of ordinary skill in this art would have been motivated to provide delivery by e-mail in one of the delivery modes because it would allow the recipient to view the message wherever Internet is available.

Regarding claim 16, Alperovich discloses the method of claim 1 (see above). Alperovich fails to disclose in which the subscriber makes the selection by means of an interactive voice call.

However, Skladman discloses in which the subscriber makes the selection by means of an interactive voice call (pages 5-6, paragraph [0063]).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to make the selection of Alperovich by means of an interactive voice call as suggested by Skladman.

One of ordinary skill in this art would have been motivated to make the selection by means of an interactive voice call because it would permit the user to enter the information, preferences and selections in a simple and efficient manner available wherever a telephone is present.

Regarding claim 23, Alperovich discloses the method of claim 1 (see above). Alperovich fails to disclose in which one of the delivery modes, which is available, is a mode providing delivery by voice call.

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However, Skladman discloses in which one of the delivery modes, which is available, is a mode providing delivery by voice call (page 4, paragraph [0055]).

Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to provide delivery of Alperovich by voice call of Alperovich as suggested by Skladman.

One of ordinary skill in this art would have been motivated to provide delivery of Alperovich voice call because it can be used to audibly notify the recipient (Skladman: page 4, paragraph [0055]).

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Spielman et al. (Patent No.: 6,560,318) discloses managing notification preferences for delivery of messages.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marivelisse Santiago-Cordero whose telephone number is (571) 272-7839. The examiner can normally be reached on Monday through Friday from 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MSC 1/26/06

MSC


ELISEO RAMOS-FELICIANO
PATENT EXAMINER 1/26/06